

REMARKS

The Examiner is thanked for his Office Action. Claims 1-52 are pending in the application. Claims 8-11 and 28-40 are withdrawn from consideration.

Claims 1-7, 12-15, 17-20, 22-25, 27 and 42 were rejected, Claims 16, 21, 26 and 43-52 were objected to and are pending. Claim 41 is allowed.

Claim 24 has been amended according to Examiner's objection to an informality. The Examiner is thanked for his helpful suggestion.

Claims 1 and 18 have been amended to add limitations previously found in claims 2 and 19, respectively. Claims 2 and 19 are cancelled. Claims 3, 4, and 20 have been amended to depend from claims 1 and 18, as appropriate. Claim 42 has also been amended as described below.

The Examiner is thanked for the indication of allowable subject matter.

CLAIM REJECTIONS -- 35 U.S.C. §102

Claims 1-4, 6, 12-15, and 18-20 were rejected under 35 U.S.C. §102(e) as being anticipated by *Findikli, et al* (U.S. Patent No. 6,529,727 B1, hereinafter Findikli).

Claims 1 and 18 include a requirement previously found in dependent claims 2 and 19, respectively, that "said memory element initially contains at least one temporary operating parameter that facilitates operation of said mobile communication device in an activation mode." This feature is not taught or suggested by Findikli. For this feature, the Office Action states that the "AMIN [is] generated from information stored in the subscription module 50" and refers to Findikli col. 5, lines 54-63. Indeed, this passage recites "the mobile terminal 10 that is over-the-air activating a subscription generates a temporary MIN, called the Activation MIN (AMIN) that is constructed by

using the algorithm known in the art based on the subscription module identifier.”

The AMIN is never described as stored in the memory element, which the Office Actions argues is satisfied by Findikli’s subscription module (SIM) 50, as required by amended claims 1 and 18. Certainly Findikli’s “subscription module identifier” is described as a “unique identifier” stored in the subscription module, but at no point does Findikli teach or suggest that the subscription module identifier is in any way a “temporary operating parameter”, as required by these claims. In short, no element described in Findikli is taught to be a “temporary operating parameter” that is “initially contained” in the subscription module and “facilitates operation of said mobile communication device in an activation mode”, as required by these claims.

Certainly a temporary operating parameter generated from information stored in a memory element is not the same as the information stored in the memory element itself. As this feature is not taught or suggested by the cited references, Findikli does not anticipate amended claims 1 and 18, or their respective dependent claims 3-7 and 20-21. These claims should be allowed.

Claim 3 also requires “said storing step replaces said at least one temporary operating parameter with said at least one assigned operating parameter.” This feature is also not taught or suggested by the cited art.

A similar distinction to that argued above with regard to claims 1 and 8 is true of claim 12, which requires “a memory element for storing at least one temporary operating parameter that facilitates operation of said mobile communication device in an activation mode.” This feature is not taught or suggested by any cited art, and so claim 12 and its dependent claims 13-17 should be allowed.

Claim 42 was rejected under 35 U.S.C. §102(e) as being anticipated *Forslow* (U.S. Patent App. 2003/009237 A1, hereinafter *Forslow*). Claim 42 has been amended to add the limitation “wherein the activation options include at least one of features, service plans, and contractual terms”, which is supported, e.g., on page 24, lines 3-5 of the specification as filed. This additional feature is not taught or suggested by *Forslow*. This rejection is traversed.

CLAIM REJECTIONS -- 35 U.S.C. §103

Claims 5, 7, 17, and 22-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Findikli in view of *Dusse, et al* (U.S. Patent No. 6,647,260 B2, hereinafter *Dusse*).

With regard to the rejection of claims 5, 7, and 17, the distinctions described above with respect to claims 1 and 12 apply here, and are incorporated by reference. *Dusse* similarly fails to teach the claim limitations described, and so these claims are also patentable over the combination of Findikli and *Dusse*. These rejections are traversed.

Claim 22 requires “providing a programmable module that is compatible with said mobile communication device, said programmable module storing at least one temporary operating parameter to facilitate operation of said mobile communication device in an activation mode” and also “storing said at least one assigned operating parameter at said programmable module.” As described above with regard to claims 1 and 8, Findikli does not describe or suggest any programmable module that meets both these limitations. Nor does *Dusse* teach or suggest such a programmable module. This feature is therefore not taught or suggested by any art of record. Claims 22-27 should be allowed, and these rejections are traversed.

CONCLUSION

As a result of the foregoing, the remaining claims in the Application are believed to be in condition for allowance, and reconsideration and allowance is respectfully requested.


If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at ***manderson@davismunck.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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